

Introduced by Senators Wright and Emmerson

February 17, 2011

An act to amend Sections 5956, 5956.1, 5956.2, 5956.3, 5956.4, 5956.5, 5956.6, 5956.7, 5956.8, 5956.9, and 5956.10 of, and to add Sections 5956.11, 5956.12, and 5956.13 to, the Government Code, relating to infrastructure financing.

LEGISLATIVE COUNSEL'S DIGEST

SB 475, as introduced, Wright. Infrastructure financing.

Existing law authorizes a governmental agency, as defined, to solicit proposals and enter into agreements with private entities for the design, construction, or reconstruction by, and lease to, private entities, for specified types of fee-producing infrastructure projects. Existing law permits these agreements to provide for infrastructure facilities owned by a governmental entity, but constructed by a private entity, to be leased to or owned by that private entity for a period of up to 35 years.

This bill would authorize a local governmental agency to enter into an agreement with a private entity for financing for specified types of revenue-generating infrastructure projects. The bill would require an agreement entered into under these provisions to include adequate financial resources to perform the agreement, and would permit the agreements to lease or license to, or provide other permitted uses by, the private entity for a term of up to 50 years, after which time the project would revert to the governmental agency. This bill would also require an unspecified entity to advise and educate local agencies and other interested stakeholders about the role that public-private partnerships can undertake in planning, studying, designing, financing, constructing, operating, maintaining, or managing local infrastructure projects.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 5956 of the Government Code is amended
2 to read:
3 5956. Local governmental agencies have experienced a
4 significant decrease in available tax revenues to fund necessary
5 infrastructure improvements. If local governmental agencies are
6 going to maintain the quality of life that this infrastructure provides,
7 they must find new funding sources. ~~One source of new money is~~
8 ~~private sector investment capital utilized to design, construct,~~
9 ~~maintain, rebuild, repair, and operate infrastructure facilities.~~
10 ~~Unless private sector investment capital becomes available to~~
11 ~~study, plan, design, construct, develop, finance, maintain, rebuild,~~
12 ~~improve, repair, or operate, or any combination thereof,~~
13 ~~fee-producing infrastructure facilities, some local governmental~~
14 ~~agencies will be unable to replace deteriorating infrastructure. One~~
15 ~~source of new money is private sector financing utilized to study,~~
16 ~~plan, design, develop, finance, construct, maintain, improve,~~
17 ~~rebuild, repair, operate, or any combination thereof, infrastructure~~
18 ~~facilities. Infrastructure projects may be financed by a combination~~
19 ~~of public funding and private sector financing under this chapter.~~
20 ~~Private sector financing for an infrastructure project under this~~
21 ~~chapter may include, but is not limited to, cash, cash equivalents,~~
22 ~~loans, debt assumption, letters of credit, capital investment, in-kind~~
23 ~~contributions of materials or equipment, construction or equipment~~
24 ~~financing, carrying of costs during construction, or any~~
25 ~~combination thereof. Unless private sector financing becomes~~
26 ~~available to study, plan, design, develop, finance, construct,~~
27 ~~maintain, improve, rebuild, repair, or any combination thereof,~~
28 ~~fee-producing infrastructure facilities, some local governmental~~
29 ~~agencies will be unable to replace deteriorating infrastructure.~~
30 Further, some local governmental agencies will be unable to expand
31 and build new infrastructure facilities to serve ~~the~~ an increasing
32 population.
33 SEC. 2. Section 5956.1 of the Government Code is amended
34 to read:

5956.1. It is the intent of the Legislature that local governmental agencies have the authority and flexibility to utilize private ~~investment capital~~ *sector financing or public financing, and any combination of these financing sources*, to study, plan, design, construct, develop, finance, maintain, rebuild, improve, repair, or operate, or any combination thereof, fee-producing infrastructure facilities. Without the ability to utilize ~~private sector investment capital~~ *these sources of financing* to study, plan, design, construct, develop, finance, maintain, rebuild, improve, repair, or operate, or any combination thereof, fee-producing infrastructure facilities, the Legislature finds that some local governmental agencies will not be able to adequately, competently, or satisfactorily retrofit, reconstruct, repair, or replace existing infrastructure and will not be able to adequately, competently, or satisfactorily design and construct new infrastructure.

SEC. 3. Section 5956.2 of the Government Code is amended to read:

5956.2. It is the intent of the Legislature that this chapter be construed as creating a new and independent authority for local governmental agencies to utilize private sector ~~investment capital~~ *financing or public financing, and any combination of these financing sources*, to study, plan, design, construct, develop, finance, maintain, rebuild, improve, repair, or operate, or any combination thereof, fee-producing infrastructure facilities. To that end, this authority is intended to supplement and be independent of any existing authority and does not limit, replace, or detract from existing authority. This chapter may be used by local governmental entities when they deem it appropriate in the exercise of their discretion. It is the intent of the Legislature that this act create no new governmental entities.

SEC. 4. Section 5956.3 of the Government Code is amended to read:

5956.3. ~~(a) For purposes of this chapter, “governmental agency”~~ *the following definitions shall apply:*

(a) “Fee-producing infrastructure project” or “fee-producing infrastructure facility” means the operation of the infrastructure project or facility will be paid for, in whole or in part, by the persons or entities benefited by or utilizing the project or facility.

(b) “Governmental agency” includes a city, county, city and county, including a ~~chartered~~ *charter* city or county, school district,

1 community college district, public district, county board of
2 education, joint powers authority, transportation commission or
3 authority, or any other public or municipal corporation.

4 ~~(b) For purposes of this chapter, “private~~

5 ~~(c) “Private entity” includes a person, business entity,~~
6 ~~combination of persons and business entities, or a combination of~~
7 ~~business entities.~~

8 ~~(e) For purposes of this chapter, “fee-producing infrastructure~~
9 ~~project” or “fee-producing infrastructure facility” means the~~
10 ~~operation of the infrastructure project or facility will be paid for~~
11 ~~by the persons or entities benefited by or utilizing the project or~~
12 ~~facility.~~

13 SEC. 5. Section 5956.4 of the Government Code is amended
14 to read:

15 5956.4. A governmental agency may solicit proposals and enter
16 into agreements with private entities for the design, construction,
17 or reconstruction by, and may lease to, private entities as
18 authorized under this chapter for the following types of
19 fee-producing infrastructure projects:

- 20 (a) Irrigation.
- 21 (b) Drainage and sanitary sewer systems.
- 22 (c) Energy or power production.
- 23 (d) Water supply, treatment, and distribution.
- 24 (e) Flood control.
- 25 (f) Inland waterways.
- 26 (g) Harbors.
- 27 (h) Municipal improvements.
- 28 (i) Commuter and light rail.
- 29 (j) Highways or bridges.
- 30 (k) Tunnels.
- 31 (l) Airports and runways.
- 32 (m) Purification of water.
- 33 (n) Sewage treatment, disposal, and water recycling.
- 34 (o) Refuse disposal.
- 35 (p) Structures or buildings, except structures or buildings that
36 are to be utilized primarily for sporting or entertainment events.

37 SEC. 6. Section 5956.5 of the Government Code is amended
38 to read:

39 5956.5. Notwithstanding Chapter 10 (commencing with Section
40 4525) of Division 5, or Part 2 (commencing with Section 10100)

or Part 3 (commencing with Section 20100) of Division 2 of the Public Contract Code, the governmental agency soliciting proposals and entering into agreements with private entities for the studying, planning, design, developing, financing, construction, maintenance, rebuilding, improvement, repair, or operation, or any combination thereof, by private entities for fee-producing infrastructure projects shall ensure that the contractor is selected pursuant to a competitive negotiation process. Projects may be proposed by the private entity and selected by the governmental agency at the discretion of the governmental agency. Projects may be proposed and selected individually or as part of a related or larger project. The competitive negotiation process shall utilize, ~~as the primary selection criteria, the demonstrated competence and qualifications for the studying, planning, design, developing, financing, construction, maintenance, rebuilding, improvement, repair, or operation, or any combination thereof, of the facility,~~ *as a primary selection criterion, the demonstrated competence and qualifications of the private entity to perform the services required under the agreement, including prior experience in performing similar services.* The selection criteria shall also ensure that the facility be operated at fair and reasonable prices to the user of the infrastructure facility services. The competitive negotiation process shall not require competitive bidding. The competitive negotiation process shall specifically prohibit practices that may result in unlawful activity including, but not limited to, rebates, kickbacks, or other unlawful consideration, and shall specifically prohibit governmental agency employees from participating in the selection process when those employees have a relationship with a person or business entity seeking a contract under this section that would subject those employees to the prohibition of Section 87100. Other than these criteria and applicable provisions related to providing security for ~~the any required~~ construction and completion of the facility, the governmental agency soliciting proposals is not subject to any other provisions of the Public Contract Code ~~or, this code, or any other statutory provision~~ that relates to public procurements.

SEC. 7. Section 5956.6 of the Government Code is amended to read:

5956.6. (a) For purposes of facilitating projects, the agreements specified in Section 5956.4 may include provisions for the lease, license, or other permissive use of rights-of-way in, and airspace

over, property owned by a governmental agency, for the granting of necessary easements, and for the issuance of permits or other authorizations to enable the private entity to construct, *maintain, rebuild, improve, or repair* infrastructure facilities supplemental to existing government-owned facilities. Infrastructure constructed by a private entity pursuant to this chapter shall, at all times, be owned by a governmental agency, ~~unless the governmental agency, in its discretion, elects to provide for ownership of the facility by the private entity during the term of the agreement.~~ All public works constructed pursuant to this section shall comply with Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code. The agreement ~~shall~~ may provide for the lease or license of those facilities to, or ~~ownership~~ *their other permissive use* by, the private entity for up to ~~35~~ 50 years. In consideration therefor, the agreement shall provide for complete reversion of the privately constructed facility to the governmental agency at the expiration of the lease, *license, or other permissive use* at no charge to the governmental agency. Subsequent to the expiration of the ~~lease or ownership period,~~ *period of the lease, license, or other permissive use,* the governmental agency may continue to charge fees for use of the infrastructure facility. If, after the expiration of the ~~lease or ownership period,~~ *period of the lease, license, or other permissive use,* the governmental agency continues to lease airspace rights to the private entity, it shall do so at fair market value.

(b) The agreement between the governmental agency and the private entity shall include, but need not be limited to, provisions to ensure the following:

(1) Compliance with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code). Neither the act of selecting a proposed project or a private entity, nor the execution of an agreement with a private entity, shall require prior compliance with the act. However, appropriate compliance with the act shall thereafter occur before project development commences.

(2) ~~Security for the construction of the facility to ensure its completion, and contractual provisions that are necessary to protect the revenue streams of the project~~ *performance of the agreement and contractual provisions that are necessary to protect the funding and financial terms of the agreement.*

1 (3) Adequate financial resources of the private entity to ~~design,~~
2 ~~build, and operate the facility, after the date of~~ *perform* the
3 agreement.

4 (4) Authority for the governmental agency to impose user fees,
5 *in whole or in part*, for use of the facility in an amount sufficient
6 to protect the revenue streams necessary for projects or facilities
7 undertaken pursuant to this chapter. User fee revenues, *used in*
8 *whole or in part, may be paid to the governmental agency or the*
9 *private entity and shall be dedicated exclusively to payment of the*
10 *private entity's and the governmental agency's direct and indirect*
11 *capital outlay costs for the project, direct and indirect costs*
12 *associated with financing of the facility, including interest,*
13 *principal, repayment, issuance, and refinancing costs, direct and*
14 *indirect costs associated with operations, direct and indirect user*
15 *fee collection costs, direct and indirect costs of administration of*
16 *the facility, reimbursement for the direct and indirect costs of*
17 *maintenance, and a negotiated reasonable return on investment to*
18 ~~the private entity~~ *other project-related costs, and a reasonable*
19 *return to the private entity as set forth specifically in the agreement,*
20 *or included as part of the costs and fees, as negotiated or*
21 *determined during the procurement process.*

22 (5) As a precondition to the imposition or increase of a user fee,
23 the governmental agency shall conduct at least ~~one~~ *two* public
24 ~~hearing~~ *hearings* at which public testimony will be received
25 regarding a proposed user fee revenue or increase in user fee
26 revenues. The public ~~hearing~~ *hearings* shall precede the action by
27 the governmental agency to actually impose a user fee or to
28 increase an existing user fee. The governmental agency shall
29 consider the public testimony prior to imposing a new or increased
30 user fee. The governmental agency shall provide the following
31 notices and utilize the following procedures:

32 (A) Notice of the date, time, and place of the meeting, including
33 a general explanation of the matter to be considered, shall be mailed
34 at least 14 days prior to the meeting to any interested party who
35 files a written request with the governmental agency for mailed
36 notice of the meeting on new or increased fees or service charges.
37 Any written request for mailed notices shall be valid for one year
38 from the date on which it is filed unless a renewal request is filed
39 prior to the expiration of the one-year period for which the written
40 request was filed. The legislative body may establish a reasonable

1 annual charge for sending notices based on the estimated cost of
2 providing the service.

3 (B) At least 10 days prior to the meeting, the governmental
4 agency shall make available to the public data that supports the
5 amount of the fee or the increase in the fee.

6 (C) (i) At least 10 days prior to the meeting, the governmental
7 agency shall publish a notice in a newspaper of general circulation
8 in that agency's jurisdiction stating the date, time, and place of the
9 meeting, including a general explanation of the matter to be
10 considered.

11 (ii) Any costs incurred by the governmental agency in
12 conducting the meeting or meetings required by this section may
13 be recovered from fees charged for the services that are the subject
14 of the fee.

15 (iii) For ~~transportation projects~~ *infrastructure projects*
16 specifically authorized by this chapter, at least 10 days prior to the
17 meeting, the governmental agency shall publish for four
18 consecutive times, a notice in the newspaper of general circulation
19 in the affected area stating in no smaller than 10-point type a notice
20 specifying the subject of the hearing, the date, time, and place of
21 the meeting, and in at least 8-point type a general explanation of
22 the matter to be considered.

23 (D) No ~~local~~ *governmental* agency shall levy a new fee or
24 service charge or increase an existing fee or service charge to an
25 amount that exceeds the estimated ~~amount required to provide the~~
26 ~~service for which the fee or service charge is levied and cost for~~
27 *which the user fee revenues are dedicated, including* a reasonable
28 rate of return on investment, pursuant to paragraph (4). Any action
29 by a ~~local~~ *governmental* agency to levy a new fee or service charge
30 or to approve an increase in an existing fee or service charge
31 pursuant to this chapter shall be taken only by ordinance or
32 resolution. The legislative body of a ~~local~~ *governmental* agency
33 shall not delegate the authority to adopt a new fee or service charge,
34 or to increase a fee or service charge.

35 (6) Require that if the legislative body of the governmental
36 agency determines that fees or service charges create revenues in
37 excess of the actual cost for which the user fee revenues are
38 ~~dedicated and, including~~ a reasonable rate of return ~~on investment,~~
39 pursuant to paragraph (4), those revenues shall either be applied
40 to any indebtedness incurred by the private entity *or the*

1 *governmental agency* with respect to the project, be paid into a
2 reserve account in order to offset future operation costs, be paid
3 into the appropriate government account, be used to reduce the
4 user fee or service charge creating the excess, or a combination of
5 these sources.

6 (7) ~~Require~~ *If the private entity operates the facility, require*
7 the private entity to maintain the facility in good operating
8 condition at all times, including the time the facility reverts to the
9 governmental agency.

10 (8) Preparation by the private entity of an annual audited report
11 accounting for the income received and expenses to operate the
12 facility. The private entity shall make that report available to any
13 member of the public for a cost not to exceed the cost of
14 reproduction of the report.

15 (9) Provision for a buyout of the private ~~entity~~ *entity's capital*
16 *investment* by the governmental entity in the event of termination
17 or default before the end of the lease term.

18 (10) Provision for appropriate indemnity promises between the
19 governmental agency and the private entity.

20 (11) Provision requiring the private entity to maintain insurance
21 with those coverages and in those amounts that the governmental
22 agency deems appropriate.

23 (12) In the event of a dispute between the governmental agency
24 and the private entity, both parties shall be entitled to all available
25 legal or equitable remedies.

26 SEC. 8. Section 5956.7 of the Government Code is amended
27 to read:

28 5956.7. (a) The governmental agency may exercise any power
29 possessed by it with respect to the development and construction
30 of infrastructure projects pursuant to this chapter. Agreements for
31 the maintenance and ~~police~~ *operation of* services entered into
32 pursuant to this chapter shall provide for full reimbursement for
33 services rendered by the governmental agency in accordance with
34 the terms and conditions specified in the agreement. The
35 governmental agency may provide services for which it is
36 reimbursed with respect to preliminary planning, environmental
37 certification, and preliminary design of the infrastructure projects.
38 The governmental agency may consult with legal, financial, and
39 other consultants in the negotiation and development of the
40 agreement. To the extent existing public utility infrastructure is

1 necessarily required to be modified, relocated, or removed in order
2 for an infrastructure project authorized by this chapter to be
3 constructed, the cost of modification, relocation, or removal of the
4 existing infrastructure shall be borne by the private entity and
5 included as a recoverable capital cost of the project. This cost shall
6 not be construed to include costs of increasing the capacity, or
7 upgrading, or improving the existing public utility infrastructure.

8 (b) The private entity's responsibility to modify, relocate, or
9 remove existing public utility infrastructure shall not alter any
10 agreements that may be in place between the governmental agency
11 and any public utility regarding projects funded by the
12 governmental agency.

13 (c) In the event of a dispute regarding the reimbursement
14 required, a private entity may request an audit of the public utility's
15 costs by a mutually acceptable certified public accountant. The
16 result of the audit shall determine the actual costs. If the audit
17 indicates that the public utility's actual costs were less than 95
18 percent of the cost claimed, the cost of the audit shall be borne by
19 the public utility. If the audit indicates that the public utility's
20 actual costs were 95 percent or more of the cost claimed, the cost
21 of the audit shall be borne by the private entity.

22 SEC. 9. Section 5956.8 of the Government Code is amended
23 to read:

24 5956.8. The plans and specifications for each project
25 constructed pursuant to this chapter shall comply with all applicable
26 governmental design standards for that particular infrastructure
27 project. The private entity ~~designing, constructing, operating, and~~
28 ~~maintaining infrastructure facilities pursuant to this chapter~~
29 *performing the agreement* shall utilize private sector design and
30 construction firms to design and construct the infrastructure
31 facilities. However, a facility subject to this chapter and leased,
32 *licensed, or permitted* to a private entity shall, during the term of
33 the lease, *license, or permit*, be deemed to be public property for
34 purposes of identification, maintenance, enforcement of laws and
35 for purposes of Division 3.6 (commencing with Section 810). All
36 ~~public works constructed~~ *construction, alteration, demolition,*
37 *installation, and repair work* pursuant to this chapter shall comply
38 with Chapter 1 (commencing with Section 1720) of Part 7 of
39 Division 2 of the Labor Code.

1 SEC. 10. Section 5956.9 of the Government Code is amended
2 to read:

3 5956.9. In order to use the authority conferred by this chapter
4 to the maximum extent, a governmental agency may use private
5 infrastructure financing pursuant to this chapter as the exclusive
6 *funding or* revenue source or as a supplemental *funding or* revenue
7 source with federal or local funds. The governmental agency
8 involved may be a local governmental agency or a combination
9 of local governmental agencies. The governmental agency may
10 work cooperatively with the California Infrastructure and Economic
11 Development Board with regard to the design, construction,
12 operation, and financing of privately financed facilities, but the
13 projects will not be subject to the review or approval of that board.

14 SEC. 11. Section 5956.10 of the Government Code is amended
15 to read:

16 5956.10. Notwithstanding any provision of this chapter, neither
17 the state or any state agency may directly or indirectly use the
18 authority in this chapter, nor may any governmental agency as
19 defined in Section 5956.3, use the authority in this chapter, to
20 design, construct, finance, or operate a state project. For purposes
21 of this section, a state project includes any of the following:

- 22 (a) Toll roads on state highways.
- 23 (b) State water projects.
- 24 (c) State park and recreation projects.
- 25 (d) State financed projects.

26 These limitations shall not prohibit the state, any state agency,
27 or any governmental agency as defined in Section 5956.3, from
28 utilizing authorizations contained in other provisions of law. *This*
29 *section shall not be construed to prohibit a governmental agency*
30 *from using this chapter to accomplish projects that are not*
31 *expressly prohibited in this section.*

32 SEC. 12. Section 5956.11 is added to the Government Code,
33 to read:

34 5956.11. (a) For the purposes of this section, the following
35 terms have the following meanings, unless the context clearly
36 requires otherwise:

37 (1) “Adjusted private party bid” means the estimated bid by a
38 private entity for an infrastructure project adjusted for risks retained
39 by the public sector under alternative financing and procurement
40 and for ancillary costs.

(2) “Alternative financing and procurement (AFP)” means a range of infrastructure project delivery methods that use private expertise and financing to build, repair, or rebuild infrastructure, on time and on budget, while ensuring appropriate public control and ownership.

(3) “Estimated private sector bid” means an estimate of the expected bid by a private entity, including financing costs, for a particular project using alternative financing and procurement delivery methods.

(4) “Public-private partnership” means a contractual agreement between a public agency and a private sector entity that utilizes private sector capital to study, plan, design, construct, develop, finance, maintain, rebuild, improve, repair, or operate, or any combination thereof, infrastructure facilities, if the facilities remain a public good.

(5) “Public sector comparator” means the estimated total costs, including adjustments for risks retained and ancillary costs, to the public sector of delivering an infrastructure project using traditional procurement processes.

(6) “Value for money” means the difference between the public sector comparator and the estimated private sector bid. A positive value for money occurs for a project using alternative financing and procurement when the adjusted private sector bid is less than the public sector comparator.

(b) The ____ shall advise and educate local agencies and other interested stakeholders about the role that public-private partnerships can play in planning, studying, designing, financing, constructing, operating, maintaining, or managing local infrastructure projects.

(c) Assistance provided by the ____ pursuant to subdivision (b) shall include, but is not limited to, all of the following:

(1) Developing information that would help a local governmental agency determine whether a local infrastructure project would benefit from a public-private partnership that provides an alternative financing and procurement approach. This information may include, but is not limited to, all of the following:

(A) A description of the kinds of private party participation that could be subject to an agreement, including, but not limited to, study, planning, finance, design, construction, operations, maintenance, or management.

1 (B) A public sector comparator to be used in conjunction with
2 an estimated private sector bid to help the local agency determine
3 whether an alternative financing and procurement approach would
4 result in a positive value for money, or whether the agency would
5 receive greater value by pursuing a traditional public sector
6 procurement approach.

7 (C) Guidelines to assist local agencies in following processes
8 that incorporate the following principles in all alternative financing
9 and procurement agreements:

- 10 (i) The public interest is paramount.
11 (ii) Value for money must be demonstrable.
12 (iii) Appropriate public control and ownership must be
13 preserved.
14 (iv) Accountability must be maintained.
15 (v) All processes must be transparent while protecting the
16 confidentiality of trade secrets.

17 (D) Information regarding the state's goal of reducing
18 greenhouse gases by 25 percent by the year 2020, and the role, if
19 any, that well-designed and innovative infrastructure can play in
20 helping to achieve that goal.

21 (E) Case studies of the use of public-private partnerships in
22 completed public infrastructure projects, including case studies of
23 projects in which public sector employees retained their jobs or
24 otherwise benefited from the project.

25 (2) Providing the information described in paragraph (1) to local
26 agencies and other interested stakeholders through educational
27 seminars, factsheets, and other materials.

28 (3) Serving as a clearinghouse of information regarding the use
29 of public-private partnerships in infrastructure projects in this state
30 and elsewhere. Specific clearinghouse functions may include, but
31 are not limited to, the following:

32 (A) Establishing an Internet Web site to post information
33 regarding local agency public-private partnership projects.

34 (B) Establishing a service to link local agencies with technical
35 and legal resources to assist in developing and evaluating requests
36 for proposals for public-private partnership projects and to assist
37 in structuring agreements to protect a local agency's interests in a
38 public-private partnership.

39 SEC. 13. Section 5956.12 is added to the Government Code,
40 to read:

1 5956.12. The governmental agency may determine the validity
2 of any permits, authorizations or approvals, contracts and
3 agreements, user fees, and other actions taken pursuant to this
4 chapter, by initiating a validating proceeding, as provided in
5 Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of
6 the Code of Civil Procedure. The validating action may also be
7 initiated by interested persons as provided in Chapter 9
8 (commencing with Section 860) of Title 10 of Part 2 of the Code
9 of Civil Procedure.

10 SEC. 14. Section 5956.13 is added to the Government Code,
11 to read:

12 5956.13. If a local governmental agency elects to proceed under
13 this chapter, the local governmental agency shall establish and
14 enforce for the project a labor compliance program containing the
15 requirements outlined in Section 1771.5 of the Labor Code, or it
16 shall contract with a third party to operate a labor compliance
17 program containing the requirements outlined in Section 1771.5
18 of the Labor Code. This requirement shall not apply to any project
19 where the governmental agency or private entity has entered into
20 any collective bargaining agreement or agreements that bind all
21 of the contractors performing work on the project.